IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3065 OF 2003.
IN
SUIT NO. 528 OF 1997

Bank of Baroda.] .. Plaintiff

Versus

1. Shri Divyakant K. Shah & Anr..] .. Defendants

And

The Inspector of Police.] .. Respondent

Mr.M.L. Palan i/b N.H. Nathani for the plaintiff.

Ms.M.Kajle, A.G.P., for the respondent.

CORAM: ANOOP V. MOHTA, J.

DATED: 16TH SEPTEMBER, 2005

P.C. :

1. The Bank of Baroda-plaintiffs have filed the present suit against the defendants for realising a huge amount with interest as per the claim statement to the Plaint. The plaintiffs have filed 13 such suits against different defendants on similar foundation, including of fraud and collusion. As alleged, these defendants in collusion had manipulated foreign current account loans as per Nastro Mirror Account. Defendant No.2 was

Officer incharge of the Foreign Exchange Department at plaintiff's Main Branch at Mumbai. Defendant No.1 was the customer of the plaintiff Bank at the relevant time. The respondent/Inspector of Police, Mumbai, on complaint, seized the various properties of such defendants in all such suits. By order dated 9th March, 1999, in a Notice of Motion, this Court has directed to deposit the seized cash in the Nationalized Bank initially for three years and directed to obtain order for further deposit from this High Court or from the concerned Magistrate.

2. Therefore, this Notice of Motion dated 20th September, 2003, has been taken out by the plaintiff for reliefs in the respective suits as under:

> "(a) Pending the hearing and final disposal of the suit, the Court Receiver appointed as per the order dated 18.1.2002 passed by His Lordship Mrs. Justice Upasani be directed to take possession of the Special Deposit Receipts as listed in Annexure "A" to this Notice of Motion, which Special Deposit Receipts are at present in custody of the Respondent herein, Inspector of Police as per order dated 9.3.1999 passed by His Lordship Mr. Justice Patankar;
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> (b) That pending the hearing and final disposal of the Notice of Motion, the Inspector of Police being the Respondent herein be directed to renew and keep renewed the said Special Deposit Receipts from time to time as per directions of

this Hon'ble Court given on 9.3.1999 by His Lordship Mr. Justice Patankar;"

3. No ad-interim order, as prayed in terms of prayer clause (b), was passed. As per the averments made in the Notice of Motion, the case is made out to renew the Special Deposit Receipts as listed in Annexure "A" to this Notice of Motion, which are at present in the custody of respondents herein.

4. An Affidavit of service has been filed. Considering the averments made in the supporting Affidavit and as there is no sufficient defence through Affidavit to controvert the same, I am inclined to grant the Notice of Motion, as prayed, in terms of prayer clause (a) and (b). As informed, for all these years, the respondent i.e. the Inspector of Police have been renewing the deposits. The Receiver shall henceforth renew and keep renewed from time to time, the said deposits/Receipts, instead of the Inspector of Police i.e. the respondent. The learned counsel for respondent has no objection for this. Therefore, Notice of Motion is allowed in terms of prayer clauses (a) and (b) subject to clarification as referred above.

5. The Notice of Motion is, therefore, disposed of accordingly.

[ANOOP V. MOHTA, J.]

[srpasha@hc]